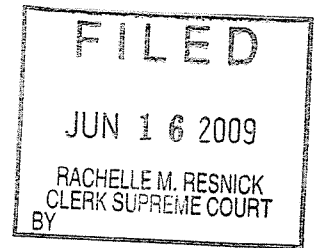


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CLERK SUPREME COURT

IN THE SUPREME COURT
STATE OF ARIZONA



JANICE K. BREWER, Governor of the
State of Arizona, in her official
capacity

Supreme Court No. _____

Petitioner,

CV-09-0168-SA

ROBERT BURNS, individually and
as President, Arizona State Senate;
KIRK ADAMS, individually and as
Speaker, Arizona House of
Representatives; The ARIZONA
STATE SENATE; The ARIZONA
HOUSE OF REPRESENTATIVES;
and CHARMION BILLINGTON
individually and as Secretary of the
Arizona State Senate,

Respondents.

PETITION FOR SPECIAL ACTION
(ORAL ARGUMENT REQUESTED)

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June 16, 2009

TABLE OF CONTENTS

Page

| | |
|-----------------------------------|-----|
| Table of Authorities | iii |
| Petition for Special Action | 1 |
| Summary | 2 |
| Jurisdictional Statement | 4 |
| Statement of the Issues | 8 |
| Statement of Facts | 9 |
| Argument | 12 |

| | | |
|-----|---|----|
| I. | RESPONDENTS' FAILURE TO PRESENT THE GENERAL APPROPRIATIONS BILL AND BUDGET RECONCILIATION BILLS TO THE GOVERNOR VIOLATES ARTICLE 4, PART 2, SECTION 12 AND ARTICLE 5, SECTION 7 OF THE ARIZONA CONSTITUTION | 12 |
| | A. The Establishment of an Annual Budget by June 30 Each Year is Critical to the Continuing Operation of State Government | 12 |
| | B. The Presentation of the Budget Bills to the Governor by the Legislature is a Mandatory Act | 14 |
| | C. The Legislature Must Present the Budget Bills to the Governor Immediately and Without Delay | 17 |
| II. | RESPONDENTS' WITHHOLDING THE BUDGET VIOLATES SEPARATION OF POWERS AS SET FORTH IN ARTICLE 3 OF THE ARIZONA CONSTITUTION | 22 |
| | A. By Holding the Budget Bills, the Legislature is Exercising an Essential Executive Power | 24 |
| | B. The Legislature Seeks to Coercively Influence the Governor by Depriving her of her Executive Power | 26 |
| | C. The Legislature is Attempting to Establish its Superiority Over the Governor by Preventing her from Exercising her Law Making Powers | 27 |

| | |
|--|----|
| D. The Practical Consequences of the Legislature’s Action is to Stall the Critical Budget Process for Fiscal year 2010 with only Two Weeks Before the Fiscal Year Begins | 27 |
| E. The Legislature’s Actions as a Whole Establish that it is Violating the Separation of Powers Doctrine | 28 |
| III. RESPONDENTS’ ACTIONS VIOLATE THE PRINCIPLES OF OPEN AND ACCOUNTABLE GOVERNMENT | 29 |
| Conclusion | 31 |
| Certificate of Compliance | 33 |
| Certificate of Service | 34 |
| Appendix | 35 |

TABLE OF AUTHORITIES

| <u>Cases</u> | <u>Page</u> |
|---|---------------|
| <i>Ahearn v. Bailey</i> , 104 Ariz. 250, 451 P.2d 30 (1969) | 22, 23 |
| <i>Ariz. Newsp. Assn v. Super. Ct. In and For Maricopa Co.</i> , 143 Ariz. 560, 694 P.2d 1174 (1985) | 29 |
| <i>Cain v. Horne</i> , 220 Ariz. 77, 202 P.3d 1178 (2009) | 16, 17 |
| <i>Campaign For Fiscal Eq., Inc. v. Marino</i> , 87 N.Y.2d 235, 661 N.E.2d 1372, 638 N.Y.S.2d 591 (1995) | 18, 19, 29-30 |
| <i>Cox v. Stults Eagle Drug Co.</i> , 42 Ariz. 1, 21 P.2d 914 (1933) | 14 |
| <i>Fairness and Accountability in Ins. Reform v. Greene</i> , 180 Ariz. 582, 886 P.2d 1338 (1994) | 4, 6 |
| <i>Forty-Seventh Legislature v. Napolitano</i> , 213 Ariz. 482, 143 P.3d 1023 (2006) | 6 |
| <i>Giss v. Jordan</i> , 82 Ariz. 152, 309 P.2d 779 (1957) | 22 |
| <i>Griffis v. Pinal Co.</i> , 215 Ariz. 1, 156 P.3d 418 (2007) | 29 |
| <i>Hayes v. Contl. Ins. Co.</i> , 178 Ariz. 264, 872 P.2d 668 (1994) | 1 |
| <i>Hull v. Albrecht</i> , 192 Ariz. 34, 960 P.2d 634 (1998) | 7 |
| <i>League of Ariz. Cities and Towns v. Martin</i> , 219 Ariz. 556, 201 P.3d 517 (2009) | 7 |
| <i>Mecham v. Gordon</i> , 156 Ariz. 297, 751 P.2d 957 (1988) | 23 |
| <i>McClintock v. City of Phoenix</i> , 24 Ariz. 155, 207 P. 611 (1922) | 16, 24 |
| <i>McDonald v. Frohmiller</i> , 63 Ariz. 479, 163 P.2d 671 (1945) | 21, 25 |
| <i>The Pocket Veto Cases</i> , 279 U.S. 655 (1929) | 29 |
| <i>Richards Furniture Corp. v. Board of Co. Commrs. Of Anne Arundel County</i> , 233 Md. 249, 196 A.2d 621 (1964) | 15 |
| <i>Rios v. Symington</i> , 172 Ariz. 3, 833 P.2d 20 (1992) | 7 |

| | |
|---|--------------|
| <i>Sellers v. Frohmiller</i> , 42 Ariz. 239, 24 P.2d 666 (1933) | 12, 13 |
| <i>State ex rel. Woods v. Block</i> , 189 Ariz. 269, 942 P.2d 428 (1997) | 6, 23, 26-27 |
| <i>State Comp. Fund v. Symington</i> , 174 Ariz. 188, 848 P.2d 273 (1993) | 7, 20, 21 |
| <i>Texas Co. v. State</i> , 31 Ariz. 485, 254 P. 1060 (1927) | 21, 25 |
| <i>Zimmerman v. State</i> , 76 Misc.2d 193, 348 N.Y.S.2d 727 (N.Y. Ct. Cl. 1973) | 15, 16 |

Constitutional Provisions

| | |
|--|---------------|
| Ariz. Const. art. 2, § 32 | 16 |
| Ariz. Const. art. 3 | <i>passim</i> |
| Ariz. Const. art. 4, pt. 1, § 1 | 12 |
| Ariz. Const. art. 4, pt. 2, § 1 | 1 |
| Ariz. Const. art. 4, pt. 2, § 12 | <i>passim</i> |
| Ariz. Const. art. 4, pt. 2, § 13 | 2 |
| Ariz. Const. art. 4, pt. 2, § 20 | 12 |
| Ariz. Const. art. 5, § 7 | <i>passim</i> |
| Ariz. Const. art. 6, § 5 | 4 |
| Ariz. Const. art. 9, § 3 | 12 |
| Ariz. Const. art. 9, § 4 | 12 |

Statutes

| | |
|--------------------------|-------|
| A.R.S. § 12-2021 | 5 |
| A.R.S. § 41-1181 | 14 |
| A.R.S. § 41-1182 | 14-15 |
| A.R.S. § 38-431.09 | 29 |

Court Rules

| | |
|--|---|
| Ariz. R. P. Spec. Act. Rule 1(a) | 4 |
| Ariz. R. P. Spec. Act. Rule 3(a) | 5 |

Other Materials

| | |
|---|-----------|
| Arizona Legislative Manual (2003) | 1, 10, 15 |
| Op. Ariz. Att'y Gen. I88-075 (1988) | 13 |
| John D. Leshy, <i>The Arizona State Constitution: A Reference Guide</i> (1993) | 13, 17 |
| Howard Fischer, <i>GOP Budget viewed as 'leverage to negotiate with Governor'</i> , Capitol Media Services (June 5, 2009) | 26 |
| Mary Jo Pitzl, <i>Patiently Waiting</i> , Arizona Republic (June 14, 2009) | 11 |
| Jim Small, <i>House Passes Budget, but Mostly to Send a Message</i> , Capitol Times (June 4, 2009) | 26 |

PETITION FOR SPECIAL ACTION

Petitioner, Governor Janice K. Brewer (“Governor”), hereby petitions this Court to compel the Arizona Legislature¹ to present to her for her consideration under article 5, section 7 of the Arizona Constitution, the proposed fiscal year 2010 budget as duly passed by the Arizona Legislature on June 4, 2009, and contained in Senate Bill 1188 (“General Appropriations Bill”); Senate Bill 1027, Senate Bill 1028, Senate Bill 1029, Senate Bill 1031, Senate Bill 1035, Senate Bill 1036, Senate Bill 1145, Senate Bill 1187, and Senate Bill 1258 (“Budget Reconciliation Bills”).²

The Governor respectfully asks this Court to determine that the Legislature’s failure to timely present the General Appropriations Bill and Budget Reconciliation Bills (collectively the “Budget Bills”) is in violation of its obligations under the Arizona Constitution because holding the bills at the Arizona Legislature: (1) violates the Presentment Clause set forth in article 4, part 2, section 12 and article 5, section 7 of the Arizona Constitution; (2) usurps an executive power by depriving the Governor of her constitutional duty to

¹ The Arizona Legislature is comprised of the Arizona State Senate and the Arizona House of Representatives and each are named as respondents in this special action. *See* Ariz. Const. art. 4, pt. 2, § 1. The Speaker and President are also named in their individual and official capacities because of their respective roles regarding the transmission of bills as set forth in the Arizona Legislature’s internal procedures. *See* Arizona Legislative Manual (2003), at p. 48. Finally, the Secretary of the Senate, Charmion Billington, is named individually and in her official capacity because she is responsible for transmitting bills to the Governor according to the Legislature’s procedures. *Id.* at 83. The respondents are collectively referred to as the “Arizona Legislature” or “Legislature” throughout this petition.

² The Supreme Court may take judicial notice of legislative filings. *See e.g. Hayes v. Cont’l Ins. Co.*, 178 Ariz. 264, 269, n. 5, 872 P.2d 668, 673, n. 5 (Ariz. 1994).

approve or disapprove legislation finally passed by the Arizona Legislature in violation of the separation of power doctrine set forth in article 3 of the Arizona Constitution; and (3) violates the principles of open and accountable government by depriving the public of a transparent budgeting process.

The Governor believes that expedited consideration of this petition is warranted because there are fewer than eleven business days remaining in the State's current fiscal year. The Legislature's disregard for the constitutional process and requirements has stalled the budget process for fiscal year 2010 and may result in a shutdown of vital government services if the budget process is not allowed to continue. This process can only resume if the Governor is presented with the Budget Bills, so that she may exercise her authority to either veto, line item veto or sign the bills into law.

SUMMARY

Once a bill has passed both houses of the Arizona Legislature, it must be presented to the Governor without delay. The Presentment Clause of the Arizona Constitution directs, "every measure [bill or joint resolution] *when finally passed shall* be presented to the Governor for [her] approval or disapproval," and, "every bill passed by the Legislature, before it becomes a law, *shall* be presented to the Governor." Ariz. Const. art. 4, pt. 2, § 12 and art.

5 § 7 (emphasis added) (hereinafter collectively referred to as the “Presentment Clause”).

The Presentment Clause language directing that the Legislature “shall” present every “finally passed” bill to the Governor is mandatory and unambiguous. Once a bill is “finally passed,” the duty to “present” it to the Governor is ministerial and not discretionary. This duty becomes especially critical when the bill being withheld relates to the budget. By withholding the presentation of “finally passed” Budget Bills to the Governor, the Legislature is ignoring the clear mandate of the Presentment Clause language. Furthermore, the Legislature is interfering with a co-equal branch of government’s lawful exercise of its executive powers by preventing the Governor from exercising her constitutional responsibility to sign, line item veto or veto bills approved by the Legislature.

The Legislature’s action shows its intent to take over an executive function by depriving the Governor of her ability to either veto, line item veto or allow the Budget Bills to become law. The executive approval stage of the legislative process is intended to provide a constitutional check and balance, not to accord the Legislature or its leaders an informal opportunity to reconsider legislation finally passed by both houses. The Legislature’s action so significantly encroaches on the executive department as to violate the essential

separation of powers doctrine and therefore amounts to an unconstitutional usurpation of power.

Furthermore, by holding the budgeting process hostage, the Legislature is violating the principles of open and accountable governance to the detriment of the citizens of Arizona. The Governor must be permitted to exercise her constitutionally mandated powers in order for the executive and legislative branches of State government to work toward a budget resolution for fiscal year 2010. Without presentation of the bills, budget negotiations have effectively stalled. The Arizona Constitution requires a budget be in place and approved before the new fiscal year begins on July 1, 2009. With less than eleven business days until the deadline, the Legislature's failure to submit the Budget Bills to the Governor needlessly places the continuation of essential State services in jeopardy.

JURISDICTIONAL STATEMENT

The Supreme Court has original jurisdiction of mandamus and other extraordinary writs to State officers. Ariz. Const. art. 6, § 5(1); *Fairness and Accountability in Ins. Reform v. Greene*, 180 Ariz. 582, 586, 886 P.2d 1338, 1342 (1994). The special action is the procedural mechanism by which relief previously available under the extraordinary writs of certiorari, mandamus or prohibition is to be pursued. *Id.* at 584, 886 P.2d at 1340; Ariz. R. P. Spec. Act.

Rule 1(a). The questions that may be raised in a special action include, in relevant part, whether the defendant has failed “to perform a duty required by law as to which he has no discretion.” Ariz. R. P. Spec. Act. Rule 3(a).

The writ of mandamus is proper when it is required to compel an act, which the law imposes as a duty resulting from an office, on the complaint of a party beneficially interested when there is no plain, adequate and speedy remedy at law. A.R.S. § 12-2021. While the Court’s decision whether to accept jurisdiction of a special action is discretionary, this Court should exercise its jurisdiction in this case and accept this special action. The Arizona Legislature’s refusal to present the finally passed Budget Bills to the Governor has stalled the budget process for fiscal year 2010 with precious few days remaining until the next fiscal year begins on July 1, 2009.

This special action challenges the constitutionality of legislative action, the resolution of which turns on the Legislature’s failure to comply with the Arizona Constitution. First, the Legislature has violated the mandate of the Presentment Clause by failing to forward finally passed bills to the Governor. No Arizona appellate court has construed the Presentment Clause in this context. Thus, the question presented is one of first impression, raises only issues of law and requires interpretation of the Arizona Constitution. *See, e.g., League of Ariz. Cities and Towns v. Martin*, 219 Ariz. 556, ___, 201 P.3d 517, 519 (2009)

(accepting jurisdiction where “novel constitutional issues of statewide importance” were present); *Fairness and Accountability in Ins. Reform*, 180 Ariz. at 586, 886 P.2d at 1342 (accepting jurisdiction where petition raised “a constitutional issue of first impression and statewide importance”).

Moreover, this case presents an important constitutional issue involving the doctrine of separation of powers, which has been held to be a matter of statewide importance justifying special action consideration. *See State ex rel. Woods v. Block*, 189 Ariz. 269, 272, 942 P.2d 428, 431 (1997); *Forty-Seventh Legislature v. Napolitano*, 213 Ariz. 482, 485-86, 143 P.3d 1023, 1026-27 (2006) (“Limiting the actions of each branch of government to those conferred upon it by the constitution is essential to maintaining the proper separation of powers” and therefore of public importance).

Second, this matter involves the budget for fiscal year 2010, the relationship between the Governor and the Legislature, and the Legislature’s failure to comply with the Arizona Constitution. The Budget must be approved by the Legislature and signed by the Governor no later than June 30, 2009, less than eleven business days from the date of this filing. Provisions of the Arizona Constitution and state law will force a shutdown of vital state services if the budget is not approved by the Legislature and approved by the Governor. The Governor must receive the Budget Bills without further delay so she may

exercise her constitutional duty to approve or disapprove the bills. Should the Governor veto the Budget Bills, it will be necessary for the Legislature to pass a new or different budget.

These issues, affecting all Arizonans and the future of our State, are of critical public and statewide importance, and therefore are deserving of this Court's immediate attention. *See e.g., League of Ariz. Cities and Towns*, 219 Ariz. at 556, 201 P.3d at 519 (accepting jurisdiction because "this case involves a dispute at the highest levels of state government" and requires a "swift determination because it concerns the state budget for the current fiscal year"); *State Comp. Fund v. Symington*, 174 Ariz. 188, 191, 848 P.2d 273, 276 (1993) (accepting jurisdiction where the petition "affect[ed] the budget for fiscal year 1992, as well as future budgets"); *Rios v. Symington*, 172 Ariz. 3, 5, 833 P.2d 20, 22 (1992) (accepting jurisdiction to resolve "a dispute at the highest levels of state government"); *Hull v. Albrecht*, 192 Ariz. 34, 960 P.2d 634 (1998) (accepting jurisdiction where it was an important issue of statewide significance requiring prompt resolution of the budget).

In *State Comp. Fund v. Symington*, the Court recognized that matters affecting future budgets require prompt resolution "so that the legislative and executive branches will know where they stand and can take such actions as they determine necessary relative to budgetary matters." 174 Ariz. at 192, 848

P.2d at 276. It is imperative the Governor be able to exercise her constitutionally mandated powers with respect to the Budget Bills. Given the short period of time remaining in the current fiscal year, the Governor must be provided sufficient time to analyze the legislation and either sign, line item veto or veto the Budget Bills. In the event that the Governor vetoes the bills, the sooner they are presented to her by the Legislature, the greater the possibility of reaching a budget solution before the end of the budget year and avoiding an unnecessary shutdown of critical state services.

STATEMENT OF THE ISSUES

1. Whether the Arizona Legislature failed to perform its constitutional duty to present the Governor the fiscal year 2010 Budget Bills finally passed by the Legislature on June 4, 2009, as required by article 4, part 2, section 12 and article 5, section 7 of the Arizona Constitution.
2. Whether the Arizona legislature has violated the separation of powers doctrine set forth in article 3 of the Arizona Constitution by preventing the Governor from exercising her constitutional authority under article 5, Section 7 of the Arizona Constitution to either veto, line item veto or allow the finally passed fiscal year 2010 Budget Bills to become law.

3. Whether the Arizona Legislature is in violation of the principles of open and accountable government by depriving the public of a transparent budgeting process.

STATEMENT OF FACTS

Senate Bill 1188 (“General Appropriations Bill”); Senate Bill 1027, Senate Bill 1028, Senate Bill 1029, Senate Bill 1031, Senate Bill 1035, Senate Bill 1036, Senate Bill 1145, Senate Bill 1187, and Senate Bill 1258 (“Budget Reconciliation Bills”), were individually First Read and Second Read in the Senate and assigned to the Senate Appropriations Committee and the Senate Rules Committee. [See Bill Status Overview attached as Appendix 1]. On May 20, 2009, the Senate Appropriations Committee heard the General Appropriations Bill and Budget Reconciliation Bills (“Budget Bills”), where it adopted a strike-everything amendment to each bill that struck all language from the bills and added the appropriations language. *Id.* On June 3, 2009, the Senate Rules Committee found the Budget Bills to be proper for consideration. The Senate Republican caucus subsequently passed the bills. *Id.*

On June 4, 2009, the Senate Committee of the Whole gave the Budget Bills a do pass amended vote, which included the adoption of the strike everything amendments from the Senate Appropriations Committee and various floor amendments that reflected the final budget agreement in the Senate. *Id.*

The Bills were subsequently Third Read and passed by a simple majority roll call vote. *Id.* The Senate then transmitted the engrossed versions to the House of Representatives. *Id.*

On June 4, 2009, the House of Representatives substituted the Senate General Appropriations Bill and Budget Reconciliation Bills for the House General Appropriations Bill and Budget Reconciliation Bills, which had passed the House of Representatives Committee of the Whole earlier in the day. *Id.* The House of Representatives passed the Budget Bills on Third Reading on June 4, 2009, and the Speaker signed the bills and directed the Chief Clerk to transmit them back to the Senate. *Id.*

The Arizona Legislature's procedure requires that bills passed by both houses be transmitted to the Governor by the house of origin. Arizona Legislative Manual (2003), at p. 46.³ The Senate Third Read the bills by roll call vote on June 4, 2009. *Id.* At that point, the Budget Bills, now known as "enrolled" bills, were required by the Legislature's procedures to be signed by the Senate President and presented by the Secretary of the Senate to the Governor for her consideration. Arizona Legislative Manual (2003), at pp. 46, 48, 51, 83; Ariz. Const. art. 4, pt. 2, § 12 and art. 5, § 7. The Budget Bills currently remain in the Secretary of the Senate's Office awaiting instruction to

³ This Manual is available at www.azleg.gov/alispdfs/Council/legman2003.pdf.

the Senate Secretary from Senate President Bob Burns to present them to the Governor. Mary Jo Pitzl, *Patiently Waiting*, Arizona Republic, June 14, 2009, at B3.

To become law, the Governor must sign the bills, allow them to take effect without her signature or they must pass the Legislature by a supermajority vote overriding the Governor's veto. Ariz. Const. art. 5, § 7. The Governor may also line item veto appropriations contained in the budget bills. *Id.* This process, however, has been stalled by the Senate President's refusal to present the Budget Bills to the Governor.

On June 15, 2009, the Governor presented Speaker Adams and President Burns with a demand letter requesting that they present her with the Budget Bills no later than 5:00 p.m. that same day. [See Demand Letter attached as Appendix 2]. A response was received from the Speaker and President that afternoon indicating their belief that "it is premature to transmit the bills when we have not yet reached a consensus." [See Letter from President and Speaker attached as Appendix 3]. To date, the Budget Bills have not been presented to the Governor.

ARGUMENT

I. FAILURE TO PRESENT THE GENERAL APPROPRIATIONS BILL AND BUDGET RECONCILIATION BILLS TO THE GOVERNOR VIOLATES ARTICLE 4, PART 2, SECTION 12 AND ARTICLE 5 SECTION 7 OF THE ARIZONA CONSTITUTION.

A. The Establishment of an Annual Budget by June 30 Each Year is Critical to the Continuing Operation of State Government.

The Arizona Legislature is required to establish an annual budget commencing on the first day of July each year to set forth the necessary ordinary expenses of the State. Ariz. Const. art. 9, §§ 3, 4; *see also* art. 4, pt. 2, § 20 (establishing the requirements of the general appropriations bill). This Court has noted the significance of the budget bill in relation to all other legislation. In *Sellers v. Frohmiller*, 42 Ariz. 239, 246, 24 P.2d 666, 669 (1933), the general appropriations bill was described as “not in the true sense of the term legislation,” but rather “merely a setting apart of the funds necessary for the use and maintenance of the...state government already in existence and functioning.” Moreover, budget legislation becomes effective immediately and is not subject to referendum because of the necessity of passing appropriations legislation every year. *See* Ariz. Const. art. 4, Pt. 1, § 1(3); art. 4, Pt. 2, § 20.

The crucial policy significance of the budget legislation is also reflected in article 4, part 2, section 13 of the Arizona Constitution, which limits the subject of the general appropriations bill to appropriations only. The purpose of this

provision is to prevent ill conceived, questionable and vicious legislation that could defeat the appropriations bill if not assented to and passed. *Sellers*, 42 Ariz. at 246-47, 24 P.2d at 669. This section recognizes the compelling need established in our State's organic law to keep the budget process pure and to prevent interference with the process through gamesmanship, logrolling, and other unnecessary procedural hurdles.

Finally, unlike any other legislation, the constitution extends to the Governor line item veto power to "items of appropriations of money... while approving other portions of [a] bill". Ariz. Const. art. 5, § 7. The idea behind this line item veto authority over proposed spending in appropriations bills is to limit the Legislature's power to coerce the Governor to accepting spending items she does not want in return for gaining other items she does want. John D. Lesly, *The Arizona State Constitution: A Reference Guide* 132-33 (1993).

The importance of establishing a budget before the end of the current fiscal year cannot be overstated. In the absence of a general appropriations act duly presented to and signed by the Governor prior to the beginning of the next fiscal year, the government may operate only to the limited extent authorized by appropriations that exist apart from the general appropriations act. *See Op. Ariz. Att'y Gen.* 188-075 (1988). Because few "continuing" or non-lapsing appropriations exist, state government will essentially shutdown at midnight on

June 30, 2009, if no budget is established prior to that date. Thus, the Arizona Legislature's action of refusing to present the Governor with the finally passed Budget Bills is not only unconstitutional, it has resulted in a potentially devastating delay of the constitutionally mandated appropriation process.

B. The Presentation of the Budget Bills to the Governor by the Legislature is a Mandatory Act.

The Arizona Constitution states in relevant part, "every measure [bill or joint resolution] when *finally passed* shall be presented to the Governor for [her] approval or disapproval." Ariz. Const. art. 4, pt. 2, § 12 (emphasis added). Additionally, "every bill passed by the Legislature, before it becomes a law, shall be presented to the Governor." Ariz. Const. art. 5, § 7. These provisions establish that the presentation of a finally passed bill to the Governor for her signature requires a formal act beyond mere passage by both houses of the legislature. *See Cox v. Stults Eagle Drug Co.*, 42 Ariz. 1, 7, 21 P.2d 914, 916 (1933) ("presenting [the passed bill] to the Governor is the next step to be taken when a bill has been finally passed"). Arizona statutes and legislative procedures confirm that presentation of duly passed bills to the Governor is a mandatory act.

Section 41-1181 of the Arizona Revised Statutes states that "[e]very bill shall, as soon as *delivered* to the governor, be endorsed as follows: 'This bill was *received* by the governor this day of'" (Emphasis added); *see also* Ariz. Const. art. 5, § 7 and A.R.S. § 41-1182 (providing that any bill that "remain[s]"

with the governor five days while the legislature is in session without being signed shall become law). Additionally, the Arizona Legislature's own procedure requires that appropriation bills passed by both houses be transmitted to the Governor by the house of origin. Arizona Legislative Manual (2003), at p. 51 ("Once adopted, the [budget] bills are presented to the Governor for approval"). The use of the terms "present", "deliver," "receive" and "remain" in these statutes and the legislative procedural requirements establish that presentment to the Governor has not occurred until there has been a formal act of delivery by the Legislature.

Case law from other jurisdictions also supports the notion that mere passage of legislation is insufficient to constitute "presentment" under constitutional provisions. The Court of Appeals of Maryland held that the "presentation" of a bill to the governor for his signature within the meaning of the Maryland constitution:

is a formal act and anticipates that the bill will be sealed with the great seal and actually and formally 'presented' to the Governor for his signature by the Secretary of the Senate or Chief Clerk of the House, who in the presence of the Governor, shall make a memorandum thereon in writing of the day and hour of its presentation, and sign the same. The mere informal receipt by the Governor's office of a bill for other purposes is not a requirement of law, and carries with it no legal significance such as to require action by the Governor in any specified time.

Richards Furniture Corp. v. Board of Co. Comm'rs. of Anne Arundel County, 233 Md. 249, 261-62, 196 A.2d 621, 628 (1964); *see also Zimmerman v. State*, 76

Misc.2d 193, 195-96, 348 N.Y.S.2d 727, 730-31 (N.Y. Ct. Cl. 1973) (holding that review of a bill by the Governor's counsel does not constitute "presentation" but rather only the certification of a bill by the Assembly Clerk and its formal delivery to the Governor constitutes presentation).

Failure to present the Governor with the Budget Bills is in direct contravention of the mandatory and unambiguous constitutional language that says "every bill... *shall* be presented to the Governor." Ariz. Const. art. 4, pt. 2, § 12 and art. 5, § 7. The use of mandatory language in the Presentment Clause is significant. This Court has noted repeatedly the significance of the term "shall." *See McClintock v. City of Phoenix*, 24 Ariz. 155, 159, 161, 207 P. 611, 613 (1922) (finding article 6, part 2, section 3 of the Arizona Constitution, which says the "Governor *shall* specify the subjects to be considered" in her call of the special session and prohibits the Legislature from passing laws not mentioned in the call is a mandatory requirement).

The use of the term "shall" throughout the pertinent provisions illustrates the mandatory nature of the duties contained therein. Ariz. Const. art. 2 § 32 ("The provisions of th[e] Constitution are mandatory, unless by express words they are declared to be otherwise"). The clear import of the words used is one of duty, not discretion. *Cain v. Horne*, 220 Ariz. 77, 202 P.3d 1178, 1181 (2009) (when interpreting a constitutional provision the primary purpose is to effectuate the

framers' intent, which requires first an examination of the plain language of the provision, without departing from the language unless the framers' intent is unclear).

The Speaker and President have publicly acknowledged their intent to withhold presenting the Budget Bills to the Governor and to engage in private negotiations that may forestall a gubernatorial veto or line item veto, even in light of the mandatory language contained in the constitutional provisions. [See Letter from President and Speaker attached as Appendix 3]. As noted, the very purpose of extending line item veto authority to the Governor was to limit the Legislature's power to coerce her to accept spending items she does not want. Leshy, at p. 132. By withholding these finally passed bills, the Legislature has denied the Governor her constitutional right to exercise her line item veto authority. The Speaker and President's powers over the Budget Bills were exhausted as a matter of constitutional mandate after the bills were finally passed out of their respective bodies.

C. The Legislature Must Present the Budget Bills to the Governor Immediately and Without Delay.

Without the Budget Bills the Governor is unable to fulfill her constitutional responsibility to either veto, line item veto or allow them to become law. If the Governor chooses to veto the bills, then the budget process must resume at the Legislature. This constitutional process cannot occur, however, if the Legislature

fails to immediately present the bills to the Governor. Consequently, the Legislature is required to present the Budget Bills to the Governor immediately and without delay.

The Court of Appeals of New York addressed the time within which the legislature must present a duly passed bill to the Governor in *Campaign For Fiscal Eq., Inc. v. Marino*, 87 N.Y.2d 235, 661 N.E.2d 1372, 638 N.Y.S.2d 591 (1995). In that case the court was asked to interpret the Presentment Clause in the New York Constitution, which is substantially similar to the Presentment Clause in the Arizona Constitution. The court found implicit in a legislature's constitutional duty to present a bill to the Governor a requirement that the bill be presented "within a reasonable time after passage," and withholding from the Governor a bill passed by the Legislature, for whatever reason, is a violation of this requirement. *Marino*, 661 N.E.2d at 1373, 87 N.Y.2d at 238, 638 N.Y.S.2d at 592.

The New York Constitution requires, "[e]very bill which shall have passed the senate and assembly shall, before it becomes a law, be presented to the governor." *Id.*(citing: N.Y. Const. art. 4, § 7). The court held implicit within article 4, Section 7 of the New York Constitution is the requirement that a bill be presented to the Governor "within a reasonable time after its passage" and withholding from the Governor a bill passed by the Legislature violates this requirement. *Id.* The court reasoned that allowing the Legislature to withhold

from the Governor a bill passed by the Legislature would “sanction a practice” that “could nullify the express vote and will of the People’s representatives” and “undermine the integrity of the law-making process as well as the underlying rationale for the demarcation of authority and power in this process.” *Id.* at 1373-74, 87 N.Y.2d 238, 239, 638 N.Y.S.2d 592, 593.

Commenting on a factual scenario very similar to the one at issue in this case, the court found that withholding a bill passed by the Legislature “while simultaneously conducting discussions and negotiations between the executive and legislative branches is just another method of thwarting open, regular governmental process.” *Id.* at 1374, 87 N.Y.2d at 239, 638 N.Y.S.2d at 593. Because of the constitutional requirement that a bill passed by the Legislature must be presented to the Governor within a reasonable time, the court held that the New York Legislature’s failure to present Senate Bill 3248 to the Governor within a reasonable time was unconstitutional. *Id.*

Following the sound reasoning of *Marino*, this Court should similarly find that the Arizona Legislature’s actions here are unconstitutional. There is no language in either article 4, part 2, section 12 or article 5, section 7 of the Arizona Constitution suggesting a different interpretation than that reached by the Court in *Marino*. In fact, the language in article 4, part 2, section 12 is even more direct than the language at issue in *Marino*, because it specifically requires “finally

passed” bills to be presented to the Governor. The inclusion of this language implies that any unreasonable delay in presenting finally passed bills to the Governor is improper.

The refusal of the Legislature to present the Governor the finally passed Budget Bills nullifies the mandatory thrust of the Presentment Clause and vests in the Legislature and its leadership the discretion to decide whether a bill should become law, even though the people’s representatives in both houses of the Legislature have finally passed it.

The Legislature is clearly outside any reasonable time period to present the Budget Bills to the Governor. At the time of this filing, twelve days have passed since the Budget Bills were approved. This is more than twice the number of days the Arizona Constitution affords the Governor to review a bill once it is formally presented. Ariz. Const. art. 5, § 7. Furthermore, the unique constitutional status of the appropriations process and the timing requirements of its passage suggest that a reasonable time to present the Budget Bills to the Governor is some time period less than five days. *See* Section I.A. of this Petition.

There is no doubt that time is of the essence given the short period remaining in the current fiscal year. In *State Compensation Fund v. Symington*, the Court acknowledged matters affecting future budgets require prompt resolution “so that the legislative and executive branches will know where they stand and can

take such actions as they determine necessary relative to budgetary matters.” 174 Ariz. at 192, 848 P.2d at 277. It is imperative that the Governor be allowed to exercise her constitutionally mandated powers so she and the Legislature may continue to work toward resolution of the budget shortfall within this critically brief time period. The Arizona Constitution requires a budget be in place and approved by July 1, 2009. With less than eleven business days until the deadline, the Legislature’s failure to submit the Budget to the Governor places the entire State and its citizens in peril.

Allowing the Legislature to withhold the presentation of finally passed bills to the Governor not only enables one co-equal branch of government to interfere with another branch’s lawful exercise of its role in the legislative process, it also impermissibly permits the legislative leadership to hold the budgeting process hostage to the detriment of the citizens of Arizona⁴. Should the budget prove unacceptable to the Governor, the legislative leadership can effectively force a government shutdown by presenting the Governor with the Budget Bills on the eve of June 30, 2009. This is contrary to the common goal of good government and will only serve to undermine the public’s confidence in the legislative process.

⁴ It is generally presumed that a Governor, in reviewing a bill, acts in a legislative capacity and is an essential part of the legislative process. See, e.g. *Texas Co. v. State*, 31 Ariz. 485, 497, 254 P. 1060, 1063 (1927) (“The Governor of the state in the exercise of his veto is just as much part of the lawmaking machinery of the government as is the Legislature.”); *McDonald v. Frohmiller*, 63 Ariz. 479, 489, 163 P.2d 671, 675 (1945) (“The lawmaking power in Arizona is composed of the two houses of the legislature and the Governor in the exercise of his veto power, and all laws, either creating or repealing, must have the approval of all three of these branches of the lawmaking power). An interruption of the carefully prescribed steps in the presentment procedure, such as a failure to transmit the bill to the Governor, improperly denies the Governor her specific, integral role in the overall law-making process.

II. RESPONDENTS' FAILURE TO PRESENT THE BUDGET BILLS TO THE GOVERNOR VIOLATES THE SEPARATION OF POWERS DOCTRINE.

Article 3 of the Arizona Constitution establishes the general principle of separation of powers. By withholding the Budget Bills, the Arizona Legislature is interfering with the proper function of state government and the separation of powers established by Article 3 of the Arizona Constitution.

Article 3 provides:

The powers of the government of the state of Arizona shall be divided into three separate departments, the legislative, the executive, and the judicial; and, except as provided in this constitution, such departments shall be separate and distinct, and no one of such departments shall exercise the powers properly belonging to either of the others.

“It is essential that the sharp separation of powers of government be carefully preserved by the courts to the end that one branch of government shall not be permitted to unconstitutionally encroach upon the functions properly belonging to another branch,” to preserve the system of checks and balances. *Giss v. Jordan*, 82 Ariz. 152, 164, 309 P.2d 779, 787 (1957); *see also Ahearn v. Bailey*, 104 Ariz. 250, 252, 451 P.2d 30, 32 (1969). (In Arizona each branch of government is independent and no department may exercise powers belonging to

others and “the concept of separation of powers is fundamental to constitutional government as we know it”)⁵.

In determining whether the separation of powers requirement has been violated, this Court must evaluate whether the Legislature has maintained control over an executive function. *Block*, 189 Ariz. at 276, 942 P.2d at 435. The Governor is unable to perform her constitutional duty under article 5, section 7 of the Arizona Constitution to veto or approve a budget passed by the Legislature without formal presentation the Budget Bills to her by the Legislature. Consequently, the failure to present the Governor with duly passed bills results in an unconstitutional encroachment of her authority in violation of the separation of powers doctrine.

There are four factors this Court may consider in determining whether the Legislature’s refusal to present the Budget Bills to the Governor violates the separation of powers clause set forth in article 3. These factors are “(1) the essential nature of the power exercised; (2) the ... degree of control [that one branch assumes] in exercising the power [of another]; (3) the ... objective [of the exercise]; [and] (4) the practical consequences of the action.” *Id.*

⁵ This case is distinguishable from the separation of powers cases where this Court has declined to tell the legislature when to meet, what its agenda should be, what it should submit to the people, what bills it may draft or what language it may use. *See, e.g. Mecham v. Gordon*, 156 Ariz. 297, 302, 751 P.2d 957, 962 (1988). Here the legislative process was complete upon final passage of the Budget Bills and all that remained was the ministerial act of presenting the bills to the Governor. Consequently, the Legislature’s failure to present the Budget Bills to the Governor does not implicate its internal processes or procedures, but rather a separate constitutional and ministerial duty to act once a bill has completed the legislative process.

A. By Holding the Budget Bills, the Legislature is Exercising an Essential Executive Power.

The presentation of passed bills by the Legislature to the Governor is a mandatory act as set forth in the Presentment Clause. As noted, this Court has interpreted other similar provisions in the Arizona Constitution prescribing legislative powers as being mandatory and not discretionary. In *McClintock v. City of Phoenix*, *supra*, article 6, part 2, section 3 of the Arizona Constitution, which requires that “the Governor shall specify the subjects to be considered” in her call of a special session was held to be a mandatory requirement. This Court held that this provision “is a limitation on the power of the Legislature that must be observed” and to allow the Legislature to disregard it and consider subjects outside the call “would permit the exercise of a power by that body expressly withheld from it by the organic law of the State.” *Id.*

The mandatory language of the Presentment Clause compels the same conclusion. To allow the Legislature to hold finally passed laws and not present them to the Governor as required would permit that body to exercise the veto power granted to the Governor, which is expressly prohibited by the Arizona Constitution.

The Presentment Clause clearly contemplates a progressive, multi-step legislative process which begins with a bill (a) being passed by both houses, then (b) being presented for the Governor’s review, and then either (c) becoming law if

she approves it or fails to act on it, or (d) being returned to the Legislature for reconsideration with the Governor's objections if she vetoes it. Each step in this process is precisely prescribed and leaves no room for informal discretion. Just as the Governor cannot unilaterally decide not to return to the Legislature a bill she has vetoed or to fail to state her objections to such a bill, the Legislature may not deny the Governor her constitutional role in the legislative process by failing to present to her bills that have been duly passed by both houses⁶. The addition of the executive approval stage to the legislative process was clearly intended to provide a constitutional check and balance against possibly precipitate or unwise bills, not to accord the Legislature or its leaders an informal opportunity to reconsider legislation that has been finally passed by both houses.

By failing to present finally passed bills to the Governor, the Legislature and its leaders are performing an executive function. The Arizona Constitution requires that the Governor either sign a bill into law, let it become law by failing to sign it after a certain period of days, exercise her line item veto authority or veto the entire bill if the Governor finds it unacceptable. Ariz. Const. art. 5, § 7. The net result of the Legislature's action is to deprive the Governor of her constitutional authority to perform any of these tasks. The Speaker and President

⁶ See, footnote 4, *supra*.

are essentially performing an executive function by attempting to manipulate the Governor into negotiating the terms of the finally passed Budget Bills.

B. The Legislature Seeks to Coercively Influence the Governor by Depriving her of her Executive Power.

The next prong of the test “is whether the Legislature’s involvement is a cooperative venture or a coercive influence.” *Block*, 189 Ariz. at 277, 942 P.2d at 436. The legislative leaders have made clear their intentions not to present the Budget Bills to the Governor. The leaders apparently believe that the Governor intends to veto the bills and that by withholding them the Governor will be forced to negotiate with them regarding the provisions in the Budget Bills that she believes are unacceptable.

The Speaker and President have imposed a new procedure foreign to the Arizona Constitution by which they intend to use the approved Budget Bills as “leverage” and to “hash out a budget deal both sides support.” Howard Fischer, *GOP Budget viewed as ‘leverage to negotiate’ with Governor*, Capitol Media Services (June 5, 2009) (available at <http://verdenews.com/main.asp?SectionID=1&subsectionID=1&articleID=31174>) and Jim Small, *House Passes Budget, but Mostly to Send a Message*, Arizona Capitol Times (June 4, 2009) (available at <http://www.azcapitoltimes.com/story.cfm?ID=11326>). Their actions here are clearly intended to enhance their control over the lawmaking process and to

deprive the Governor of the ability to exercise her constitutional role in that same process.

C. The Legislature is Attempting to Establish its Superiority over the Governor by Preventing her from Exercising her Law Making Powers.

When evaluating the objective of the Legislature, this Court asks whether the “intent of the Legislature is to cooperate with the executive by furnishing some special expertise of one or more of its members or is the objective of the Legislature obviously one of establishing its superiority over the executive department in an area essentially executive in nature.” *Block*, 189 Ariz. at 277, 942 P.2d at 436. Again, the Legislature's actions in failing to present the Budget Bills establish its clear intent to establish its superiority over the Governor in the lawmaking process and to ignore her role in that process. The Legislature's action shows its intent to take over an executive function by depriving the Governor of her ability to either veto or allow the Budget Bills to become law.

D. The Practical Consequences of the Legislature's Action is to Stall the Critical Budget Process for Fiscal Year 2010 with only Two Weeks before the Fiscal Year Begins.

This Court has characterized the fourth consideration for determining whether separation of powers has been violated as “the practical result of the blending of powers as shown by actual experience over a period of time where such evidence is available.” *Id.* at 278, 942 P.2d at 437. Although it appears that

this is the first time the Legislature has ever withheld a duly passed appropriation bill from consideration by the Governor, this decision has already had a detrimental impact by stalling the budget process with precious few days remaining before the beginning of the next fiscal year. The idea of negotiating the terms of bills passed by the legislature as proposed by the Senate President, who is holding the Budget Bills, is foreign to the legislative process. For obvious reasons, such negotiation and compromise can only effectively occur while bills are being debated at the Legislature and not after the legislative process is complete.

E. The Legislature's Actions as a Whole Establish that it is Violating the Separation of Powers Doctrine.

In balancing these factors, it is clear that the Legislature's action so significantly encroaches on the executive department as to amount to an unconstitutional usurpation of power. The Arizona Legislature is performing an executive function by refusing to present the Budget Bills to the Governor. The practical result of this decision is to create conflict between the Governor and the Legislature. All of the factors support a finding that the Arizona Legislature is performing an executive function and its decision to withhold the duly passed Budget Bills from the Governor for her consideration under article 5, section 7 of the Arizona Constitution is unconstitutional because it violates the express terms of article 3 of the Arizona Constitution.

III. RESPONDENT'S ACTIONS VIOLATE THE PRINCIPLES OF OPEN AND ACCOUNTABLE GOVERNMENT.

The central law-making function must be exposed to civic scrutiny and involvement in order to maintain the public's trust in the Legislature. Historically, the State of Arizona "has always favored open government and an informed citizenry". *Ariz. Newsp. Assn', v. Super Ct. In and For Maricopa Co.*, 143 Ariz. 560, 564, 694 P.2d 1174, 1178 (1985). This public policy is reflected in Arizona's open meeting and public records laws. *Griffis v. Pinal Co.*, 215 Ariz. 1, 4, 156 P.3d 418, 421 (2007) (the purpose of the public records law is to "open government activity to public scrutiny."); A.R.S. 38-431.09 (The open meeting law is based on "the public policy of this state that meetings of public bodies be conducted openly").

Here, the Legislature has acted in a manner that is inconsistent with Arizona's long history of open and transparent government. Withholding a bill passed by the Legislature makes it difficult for citizens to determine the location and status of a bill in the legislative process. *See The Pocket Veto Cases*, 279 U.S. 655, 684-85 (1929) (noting that a plain object of the Presentment Clause was to give the public "certain and prompt knowledge as to the status of the bill"); *Marino*, 661 N.E.2d at 1374, 87 N.Y.2d at 239, 638 N.Y.S. 2d at 593 ("[t]he practice of withholding passed bills while simultaneously conducting discussions

and negotiations between the executive and legislative branches is just another method of thwarting open, regular governmental process...”).

Specifically, because the Budget Bills do not currently exist in a constitutionally defined location in the legislative process, it is difficult for the citizens of the State of Arizona to determine the location of the bills and whom to hold accountable for their status. It is apparent when a bill has been presented to the Governor, the citizens of Arizona can hold the Governor accountable for her decision to veto or approve a bill as the Governor clearly has control over this step of the law-making process. Prior to the passage of a bill, or after the Governor’s veto, the citizens of Arizona can hold the Legislature accountable because the Legislature is in control of the bill during this step of the law-making process. Failing to make it clear to the public who they can hold accountable for the status of a particular bill contradicts Arizona’s public policy of transparent, open government subject to civic scrutiny.

The carefully conceived veto procedure set forth in article 5, section 7 of the Arizona Constitution guarantees citizens clear notice of the fact that the Governor has disapproved of a bill or portions of an appropriations bill, requires her to state publicly her specific reasons for doing so, and allows the public to observe and influence the Legislature’s deliberations in reconsidering the bill if the Governor vetoes the entire bill. The practice of retaining bills to conduct closed-door

negotiations concerning a replacement version shields the legislative process from public scrutiny and undermines the integrity of the law-making process.

CONCLUSION

The Arizona Legislature has failed to present the fiscal year 2010 Budget Bills to the Governor as required by article 4, part 2, section 12 and article 5, section 7 of the Arizona Constitution. The Legislature's decision to withhold the Budget Bills from the Governor violates the separation of powers requirement set forth in article 3 of the Arizona Constitution because the Legislature is depriving the Governor of her constitutional duty to approve or disapprove legislation duly passed by the Arizona Legislature. Finally, the Legislature's decision to hold the duly passed Budget Bills violates the principles of open and accountable government by depriving the public of a transparent budgeting process.

For these reasons, the Governor respectfully requests this Court to issue an order declaring the Respondents' actions in failing to present the Governor the finally passed Budget Bills unconstitutional and ordering the President and Secretary of Senate to present the Budget Bills to the Governor without further delay.

RESPECTFULLY SUBMITTED this 16th day of June, 2009.

A handwritten signature in black ink, appearing to read 'Joseph Kanefield', is written over a horizontal line.

Joseph Kanefield

Vanessa Hickman

OFFICE OF THE GOVERNOR

1700 W. Washington, 9th Floor

Phoenix, Arizona 85007

Attorneys for Petitioner

Governor Janice K. Brewer

CERTIFICATE OF COMPLIANCE

Pursuant to Ariz. R. P. Spec. Act. 7(e), I certify that the body of the attached Petition appears in proportionately spaced type of 14 point Times New Roman font, is double-spaced (except for headings, indented quotations and footnotes), and contains 7,067 words.

DATED this 16th day of June, 2009.



Joseph Kanefield

CERTIFICATE OF SERVICE

I certify that two copies of this Special Action Petition were served on June 16, 2009, by hand-delivery to the following:

The Honorable Robert Burns
Arizona State Senate
State Capitol
1700 West Washington
Phoenix, Arizona 85007

Charmion Billington
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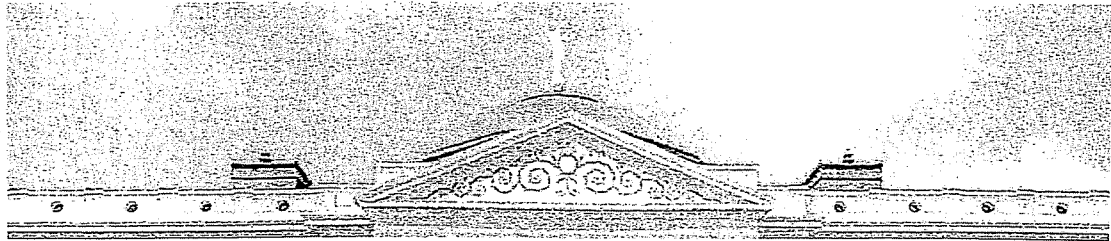
The Honorable Kirk Adams
Arizona House of Representatives
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Peter Gentala
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Phoenix, Arizona 85007

A handwritten signature in black ink, appearing to read "Nicole Bende", written over a horizontal line.

APPENDIX 1

Arizona State Legislature Bill Number Search



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BILL STATUS OVERVIEW

SB1188 (Substitute Bill - HB2633)

SPONSORS: BURNS P

TITLE: fiduciary funds; deposits; technical correction
(NOW: general appropriations; FY 2009-2010)

SENATE FIRST READ: 01/26/09

SECOND READ: 04/23/09

COMMITTEES: ASSIGNED COMMITTEES ACTION

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AMENDMENTS

APPROP (ref Bill) adopted

Burns flr amend (ref APPROP) adopted

Burton Cahill flr amend (ref APPROP) failed

Rios #1 flr amend (ref APPROP) failed

Rios #2 flr amend (ref APPROP) failed

Aboud #2 flr amend (ref APPROP) failed

Aboud #3 flr amend (ref APPROP) failed

THIRD READ: DATE AYES NAYS NV EXC EMER AMEND RFE 2/3 VOTE RESULT

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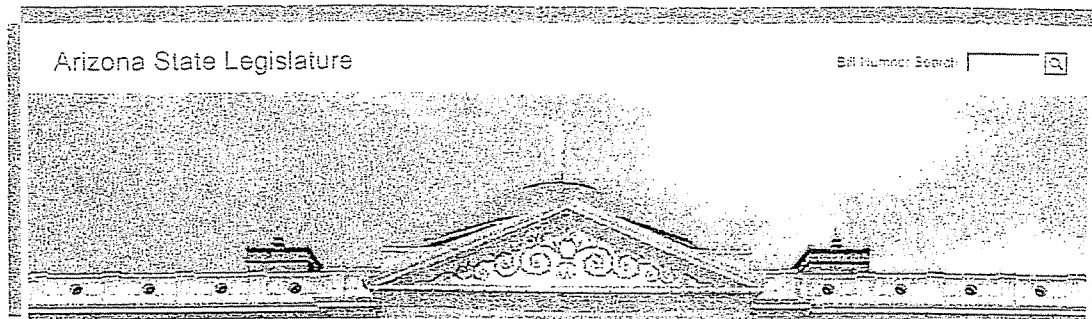
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BILL STATUS OVERVIEW

SB1027 (Substitute Bill - HB2634)

SPONSORS: PEARCE R P

TITLE: technical correction; bonds; tax considerations
(NOW: capital outlay; FY 2009-2010)

SENATE FIRST READ: 01/12/09

SECOND READ: 04/23/09

COMMITTEES: ASSIGNED COMMITTEES ACTION

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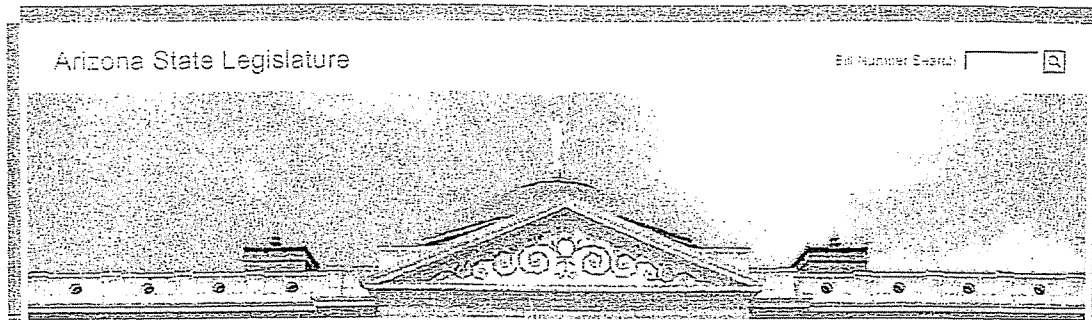
APPROP (ref Bill) adopted

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TRANSMIT TO SENATE: 06/04/09



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(NOW: budget reconciliation; criminal justice)**SENATE FIRST READ:** 01/12/09**SECOND READ:** 04/23/09**COMMITTEES: ASSIGNED COMMITTEES ACTION**

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AMENDMENTS

APPROP (ref Bill) adopted

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TRANSMIT TO SENATE: 06/04/09

Arizona State Legislature

Forty-ninth Legislature - First Regular Session

Senate House Legislative Council JLBC More Agencies Bills Committees Calendars/News

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BILL STATUS OVERVIEW

SB1029 (Substitute Bill - HB2640)

SPONSORS: PEARCE R P

TITLE: technical correction; budget estimates
(NOW: budget reconciliation; higher education)

SENATE FIRST READ: 01/12/09

SECOND READ: 04/23/09

COMMITTEES: ASSIGNED COMMITTEES ACTION

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AMENDMENTS

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TRANSMIT TO SENATE: 06/04/09

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BILL STATUS OVERVIEW

SB1031 (Substitute Bill - HB2637)

SPONSORS: PEARCE R P

TITLE: tax exemption; technical correction
(NOW: budget reconciliation; assets)

SENATE FIRST READ: 01/12/09

SECOND READ: 04/23/09

COMMITTEES: ASSIGNED COMMITTEES ACTION

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AMENDMENTS

APPROP (ref Bill) adopted


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| THIRD READ: DATE | AYES | NAYS | NV | EXC | EMER | AMEND | RFE | 2/3 | VOTE | RESULT |
| Vote Detail: 06/04/09 | 16 | 1 | 13 | 0 | | Y | | | | PASSED |

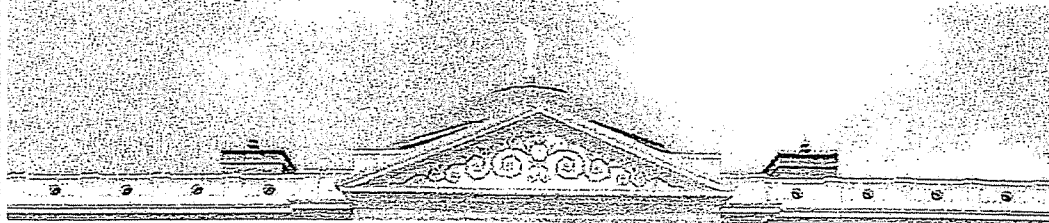
TRANSMIT TO HOUSE: 06/04/09

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| THIRD READ: DATE | AYES | NAYS | NV | EXC | EMER | AMEND | RFE | 2/3 | VOTE | RESULT |
| Vote Detail: 06/04/09 | 32 | 24 | 4 | 0 | | | | | | PASSED |

TRANSMIT TO SENATE: 06/04/09

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BILL STATUS OVERVIEW

SB1035 (Substitute Bill - HB2636)

SPONSORS: PEARCE R P

TITLE: school bonds; technical correction
(NOW: budget reconciliation; general government)

SENATE FIRST READ: 01/12/09

SECOND READ: 04/23/09

COMMITTEES: ASSIGNED COMMITTEES ACTION

| | | | |
|-------------|----------|--------|---------------------------|
| Vote Detail | 04/23/09 | APPROP | 05/20/09 (6-3-2-0) DPA/SE |
| | 04/23/09 | RULES | 06/03/09 PFOA |

MAJORITY CAUCUS: 06/03/09 Y

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| 06/04/09 DPA | 0 | 0 | 0 | 0 |
|--------------|---|---|---|---|

AMENDMENTS

APPROP (ref Bill) adopted

RULES (ref APPROP)

Burns flr amend (ref APPROP) (sub RULES) adopted

Aboud #1 flr amend (ref APPROP) failed

Aboud #2 flr amend (ref APPROP) failed

THIRD READ: DATE AYES NAYS NV EXC EMER AMEND RFE 2/3 VOTE RESULT

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| Vote Detail | 06/04/09 | 16 | 1 | 13 | 0 | Y | PASSED |
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TRANSMIT TO HOUSE: 06/04/09

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| Vote Detail | 06/04/09 | 32 | 24 | 4 | 0 | PASSED |
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BILL STATUS OVERVIEW

SB1036 (Substitute Bill - HB2635)

SPONSORS: PEARCE R P

TITLE: tax anticipation bonds; technical correction
(NOW: budget reconciliation; general revenues)

SENATE FIRST READ: 01/12/09

SECOND READ: 04/23/09

COMMITTEES: ASSIGNED COMMITTEES ACTION

| | | | | |
|-------------|----------|--------|--------------------|--------|
| Vote Detail | 04/23/09 | APPROP | 05/20/09 (6-3-2-0) | DPAUSE |
| | 04/23/09 | RULES | 06/03/09 | PFOA |

MAJORITY CAUCUS: 06/03/09 Y

COW ACTION 1: DATE ACTION AYES NAYS NV EXC

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| 06/04/09 | DPA | 0 | 0 | 0 | 0 |
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AMENDMENTS

APPROP (ref Bill) adopted

RULES (ref APPROP)

Burns fir amend (ref APPROP) (sub RULES) adopted

Garcia fir amend (ref APPROP) failed

THIRD READ: DATE AYES NAYS NV EXC EMER AMEND RFE 2/3 VOTE RESULT

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| Vote Detail | 06/04/09 | 16 | 1 | 13 | 0 | | Y | | PASSED |
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TRANSMIT TO HOUSE: 06/04/09

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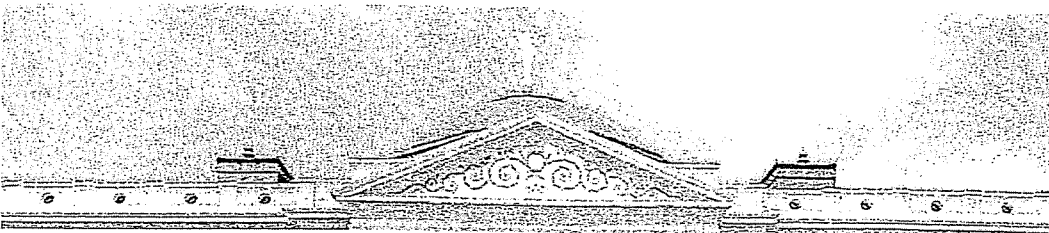
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| Vote Detail | 06/04/09 | 31 | 24 | 5 | 0 | | | | PASSED |
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BILL STATUS OVERVIEW

SB1145 (Substitute Bill - HB2641)

SPONSORS: ALLEN S P

TITLE: technical correction; dry wells; regulation
(NOW: budget reconciliation; health and welfare)

SENATE FIRST READ: 01/26/09

SECOND READ: 05/19/09

COMMITTEES: ASSIGNED COMMITTEES ACTION

| | | | | |
|-------------|----------|--------|--------------------|--------|
| Vote Detail | 05/19/09 | APPROP | 05/20/09 (6-3-2-0) | UPA SE |
| | 05/19/09 | RULES | 06/03/09 | PFCA |

MAJORITY CAUCUS: 06/03/09 Y

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AMENDMENTS

APPROP (ref Bill) adopted

RULES (ref APPROP)

Burns flr amend (ref APPROP) (sub RULES) adopted

Landrum Taylor flr amend (ref APPROP) failed

Rios flr amend (ref APPROP) failed

THIRD READ: DATE AYES NAYS NV EXC EMER AMEND RFE 2/3 VOTE RESULT

| | | | | | | | |
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| Vote Detail | 06/04/09 | 16 | 1 | 13 | 0 | Y | PASSED |
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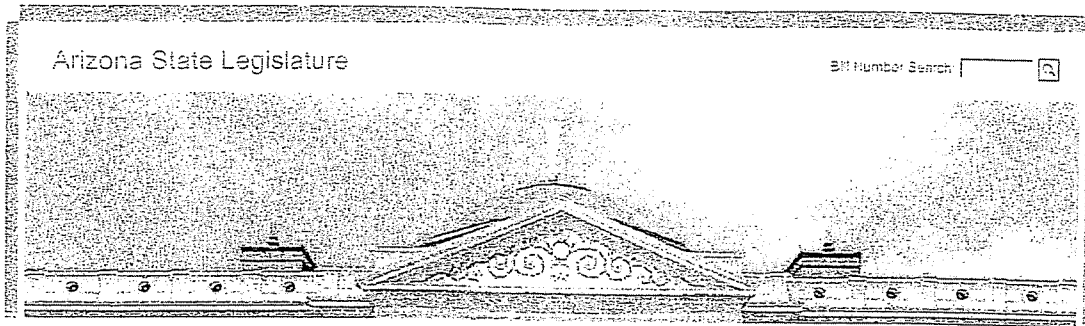
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THIRD READ: DATE AYES NAYS NV EXC EMER AMEND RFE 2/3 VOTE RESULT

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| Vote Detail | 06/04/09 | 31 | 25 | 4 | 0 | PASSED |
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BILL STATUS OVERVIEW

SB1187 (Substitute Bill - HB2639)

SPONSORS: BURNS P

TITLE: technical correction; deceptive mailings
(NOW: budget reconciliation; K-12)

SENATE FIRST READ: 01/26/09

SECOND READ: 04/23/09

COMMITTEES: ASSIGNED COMMITTEES ACTION

| | | | | |
|-------------|----------|--------|--------------------|--------|
| Vote Detail | 04/23/09 | APPROP | 05/20/09 (6-3-2-0) | DPA SE |
| | 04/23/09 | RULES | 06/03/09 | PPCA |

MAJORITY CAUCUS: 06/03/09 Y

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| COW ACTION 1: DATE | ACTION | AYES | NAYS | NV | EXC |
| 06/04/09 | DPA | 0 | 0 | 0 | 0 |

AMENDMENTS

APPROP (ref Bill) adopted

RULES (ref APPROP)

Burns fir amend (ref APPROP) (sub Rules) adopted

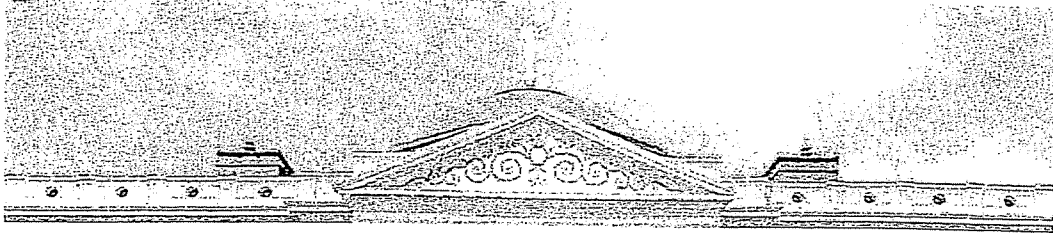
| | | | | | | | | | | |
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| THIRD READ: DATE | AYES | NAYS | NV | EXC | EMER | AMEND | RFE | 2/3 | VOTE | RESULT |
| Vote Detail: 06/04/09 | 16 | 1 | 13 | 0 | | | | Y | | PASSED |

TRANSMIT TO HOUSE: 06/04/09

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| THIRD READ: DATE | AYES | NAYS | NV | EXC | EMER | AMEND | RFE | 2/3 | VOTE | RESULT |
| Vote Detail: 06/04/09 | 32 | 23 | 5 | 0 | | | | | | PASSED |

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BILL STATUS OVERVIEW

SB1258 (Substitute Bill - HB2642)

SPONSORS: ALLEN S P

TITLE: mine inspector; education; training; fees
(NOW: budget reconciliation; environment)

SENATE FIRST READ: 01/28/09

SECOND READ: 05/19/09

COMMITTEES: ASSIGNED COMMITTEES ACTION

| | | | | |
|-------------|----------|--------|--------------------|---------|
| Vote Detail | 05/19/09 | APPROP | 05/20/09 (6-3-2-0) | DPA USE |
| | 05/19/09 | RULES | 06/03/09 | RFC |

MAJORITY CAUCUS: 06/03/09 Y

COW ACTION 1: DATE ACTION AYES NAYS NV EXC

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| | 06/04/09 | DPA | 0 | 0 | 0 | 0 |
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AMENDMENTS

Amended by APPROP (ref Bill) adopted

Burns flr amend (ref APPROP) adopted

THIRD READ: DATE AYES NAYS NV EXC EMER AMEND RFE 2/3 VOTE RESULT

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| Vote Detail | 06/04/09 | 16 | 1 | 13 | 0 | | Y | | PASSED |
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THIRD READ: DATE AYES NAYS NV EXC EMER AMEND RFE 2/3 VOTE RESULT

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| Vote Detail | 06/04/09 | 32 | 23 | 5 | 0 | | | | PASSED |
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APPENDIX 2



STATE OF ARIZONA

JANICE K. BREWER
GOVERNOR

EXECUTIVE OFFICE

June 15, 2009

The Honorable Robert Burns
Arizona State Senate
1700 West Washington
Phoenix, Arizona 85007

RECEIVED

JUN 17 2009

OFFICE OF THE PRESIDENT

The Honorable Kirk Adams
Arizona House of Representatives
1700 West Washington
Phoenix, Arizona 85007

RE: Senate Bills 1188, 1027, 1028, 1029, 1031, 1035, 1036, 1145, 1187, 1258

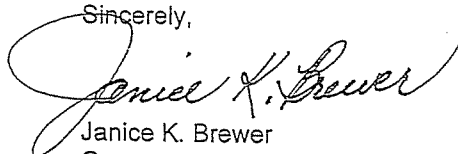
Dear President Burns & Speaker Adams:

Article IV, Part 2, Section 12 and Article V, Section 7 of the Arizona Constitution require that bills passed by the Arizona Legislature be presented to me without undue delay.

I have yet to receive the above FY 2010 budget bills that were passed by the Arizona Legislature on June 4, 2009. You have told me that you are holding these bills so that we can engage in negotiations regarding the substance of the bills. After working with you and your staff over the past week, I now believe that the budget process cannot move forward unless I am presented with the bills as passed by the Legislature as soon as possible.

Please present these bills to me no later than 5:00 p.m. today. If I do not receive the bills today, I will pursue all legal means to obtain them. I look forward to receiving these bills this afternoon so that we can continue to work towards balancing the 2010 budget in the short time we have remaining before the new fiscal year begins.

Sincerely,


Janice K. Brewer
Governor

JKB/jk

1700 WEST WASHINGTON STREET, PHOENIX, ARIZONA 85007
602-542-4331 • FAX 602-542-7602

APPENDIX 3



Arizona State Legislature

1700 West Washington

Phoenix, Arizona 85007

June 15, 2009

The Honorable Janice K. Brewer
Governor of Arizona
1700 West Washington Street
Phoenix, Arizona 85007

Dear Governor Brewer:

We are in receipt of your letter from earlier today. We share your concern that the discussion continues to move forward and we appreciate the hard work you and your staff are putting into reaching an agreement on the budget. At this time, our ongoing discussions—though productive—have not yet produced an agreement.

You have inquired after the budget bills that were passed earlier this month. Please be assured that the bills will be presented to you in the current legislative session. As you know, the bills have been an important part of our discussions so far. We believe it is premature to transmit the bills when we have not yet reached a consensus.

We are eager to continue the discussion and hopeful that we will reach an agreement on a balanced budget that will benefit our State during this time of economic crisis.

Sincerely,

A handwritten signature in dark ink, appearing to read "Robert L. Burns".

Robert L. Burns
President of the Senate

A handwritten signature in dark ink, appearing to read "Kirk D. Adams".

Kirk D. Adams
Speaker of the House